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RONALD
MURAWSKI/R5/USEPA/US

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To

Subject FEEDBACK ON TWO ISSUES OF 6/13 CALL

Gary, in this e-mail message, I'm responding to two issues that arose during our WP call on June 13. For each issue, I consulted with Tom Turner, who, as you know, is the EPA Region 5 attorney for the Old American Zinc Plant Site.

1. Sampling and potential remediation of the nearby, dirt alleys

During our call, you agreed to sample the alleys for contaminants. However, you said that any remediation of the alleys would be very expensive and that Blue Tee would expect EPA to bring Fairmont City to the table as a PRP to participate in the remediation.

It's EPA's contention that airborne contaminants migrated from the 132 acres onto nearby properties, including the dirt alleys. Because of this, Blue Tee is a PRP for the RI/FS and will be for the RD/RA.

You contention is that, because Fairmont City spread the zinc slag onto the dirt alleys, Fairmont City should be responsible for the remediation of the alleys.

Paragraph 101 of the AOC says: "Based upon objective and validated findings submitted by Respondents during the RI/FS, Respondents may propose new Potentially Responsible Parties to EPA for purposes of amending this Consent Order. EPA shall have final determination as to any new Respondents to be added to the Consent Order."

Therefore, although EPA can use its enforcement resources to identify, notice, and order other PRPs for the RI/FS, RD/RA, etc., Blue Tee should present evidence to EPA on PRPs that Blue Tee feels should be involved in the clean up. If the evidence is conclusive such that other PRPs should be noticed, ordered, etc., EPA will use its enforcement authority to do so.

2. Investigation of the Biggs Brothers alleged GW plume

Since the plume is supposedly on and/or near OAZ, the GW investigation conducted as part of the RI would undoubtedly include investigation of the plume.

As part of the RI Report and/or in other written correspondence to EPA, Blue Tee may state its case as to why PRPs other than Blue Tee should be responsible for remediating the plume. For this explanation to be acceptable to EPA, Blue Tee would need to show how the plume could not have been the result of any past operations related to OAZ.

As is true with item #1 above, if evidence shows that other PRPs should be included in the RI/FS, RD/RA, etc. for OAZ, EPA will use its enforcement authority to include the PRPs in the appropriate clean-up phases of the Site.

Please forward this message to Terri Faye as you see fit. Also, Tom and I will be available to discuss these issues with you and Terri.

Thanks.